

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

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☐ Individual appearing without attorney  
☒ Attorney for: Jeremy W. Faith, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION

In re:

ROBERT LEE RAINS and  
BETTY SUE RAINS,

CASE NO.: 9:14-bk-10379-PC

## CHAPTER: 7

## NOTICE OF SALE OF ESTATE PROPERTY

Debtor(s).

**Sale Date:** 09/06/2016

**Time:** 10:00 am

**Location:** Courtroom 201, 1415 State Street, Santa Barbara, CA 93101

**Type of Sale:** ☒ Public ☐ Private

**Last date to file objections: 08/23/2016**

**Description of property to be sold:** See attachment

**Terms and conditions of sale:** See attachment

**Proposed sale price: \$ 550,000.00**

**Overbid procedure (*if any*):** See attachment

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

The property as described in the attachment is being sold subject to all liens, claims and interests and encumbrances pursuant to 11 U.S.C. § 363(b).

**Contact person for potential bidders (*include name, address, telephone, fax and/or email address*):**

Noreen A. Madoyan  
Margulies Faith, LLP  
16030 Ventura Blvd., Suite 470  
Encino, CA 91436  
Telephone: (818) 705-2777  
Email: Noreen@MarguliesFaithLaw.com

Date: 08/16/2016

1           **Description of property to be sold:** (1) the Estate's right, title and interest in the  
2 real property commonly known as Casa Fina, located at Callejon del Sol # 35,  
3 Fraccionamiento El Pedregal, Cabo San Lucas 23410 Los Cabo B.C.S. 23453, Mexico  
4 (the "Cabo Property"), which is currently held in a Mexican real estate trust known as  
5 "Fidelcomiso 25 Cerrado Del Sol Trust"; (2) any rights or claims to casualty insurance  
6 proceeds associated with the Cabo Property, if any (the "Insurance Proceeds"); and (3)  
7 any and all personal property located at the Cabo Property as of the closing of the sale  
8 ("Cabo Personal Property") subject to all liens, claims and interests and encumbrances  
9 pursuant to 11 U.S.C. § 363(b). Together, the Cabo Property, the Insurance Proceeds,  
10 and the Personal Property shall be referred to as the Cabo Property Assets.

11  
12           **Overbid Procedures:** The Trustee requests approval of the following overbid  
13 procedure:

14           a) Overbid Amount

15           An overbid will be defined as an initial overbid of \$1.55 Million USD, with each  
16 additional bid in \$50,000 increments ("Overbid"). In his absolute and sole discretion, the  
17 Trustee shall have the right to accept additional Overbids submitted prior to the hearing  
18 but after the Overbid Deadline.<sup>1</sup> The Trustee may exercise his discretion to reject a  
19 particular Overbid that is not both higher and better (based on all the circumstances)  
20 than the Buyer's offer or the offer of another overbidder.

21           In light of the additional consideration received under the terms of the Agreement,  
22 the Trustee has determined that the initial overbid amount is reasonable given the  
23 significant consideration the Estate shall receive from Blackburn under the Agreement.  
24 The Overbid takes into account the liens set forth on the Encumbrance Certificate, the  
25 reduction of the Blackburn Claims in the amount of \$1,200,000, and estimated Brokers'  
26

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27           <sup>1</sup> If the Trustee determines at or before the hearing that the bidding procedures should be altered, the  
28 Trustee will so apprise the Court at or before the hearing and will request approval of the bidding  
procedures as revised.

1 commissions and costs of \$104,130 which would be due in a sale to a third party  
2 overbidder.

3 b) Intent to Bid

4 Any party wishing to bid on the Cabo Property Assets ("Overbidder") shall advise  
5 the Trustee's bankruptcy counsel (contact information above), in writing, of his or her  
6 intent to bid on the assets by no later than 5:00 p.m. PST on August 31, 2016 (the  
7 "Overbid Deadline").

8 c) Payment of Deposit

9 Any Overbidder (except for the Buyer) must deliver by 5:00 p.m. PST on August  
10 31, 2016 a deposit to Noreen A. Madoyan, Trustee's counsel, at the address stated on  
11 the first page of this Motion to Sell, by way of cashier's check in the amount of \$155,000  
12 (i.e., 10% of the initial overbid purchase price) made payable to "Jeremy W. Faith,  
13 Chapter 7 Trustee," (the "Deposit").

14 d) Evidence of Financial Ability to Perform

15 In order to participate in the bidding, any Overbidder must provide to the Trustee  
16 information sufficient to demonstrate to the reasonable satisfaction of the Trustee, in his  
17 sole discretion, that the proposed Overbidder has sufficient liquid assets and the  
18 financial ability to pay the full amount of the Overbid so that such evidence is received by  
19 the Trustee's counsel by no later the Overbid Deadline. In the event a proposed bidder  
20 (including, but not limited to, the Buyer) submits a higher bid at the hearing, sufficient  
21 evidence of that party's ability to pay the full amount of the higher bid must be provided  
22 to the Trustee at the hearing.

23 e) Multiple Bids and Auction

24 In the event the Trustee receives multiple Overbids in the same amount, the  
25 Trustee will accept the Overbids in the order they are received such that only the  
26 Overbidder submitting such bid first will be deemed to have made a bid in such amount  
27 and the other Overbidders will need to increase their bid to be eligible to purchase the  
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1 Cabo Property Assets. All parties who have submitted timely bids and otherwise  
2 satisfied the foregoing requirements will be able to participate in an auction to be  
3 conducted at the hearing on the Motion to Sell as is necessary in order to increase their  
4 bid.

5 The Trustee requests that the Court approve the Sale to the highest bidder at the  
6 time of the hearing (the "Winning Bidder"). The Trustee requests that the Court  
7 authorize the next highest bidder as a backup bidder (the "Backup Bidder") at the time of  
8 the hearing. The Trustee requests that the sale to the Backup Bidder is approved in the  
9 event that the Winning Bidder fails to consummate the sale.

10 f) Tender of Balance of Purchase Price

11 The Winning Bidder's Deposit shall be applied towards the total and final  
12 purchase price. The Winning Bidder must tender the balance of the total and final  
13 purchase price within fourteen calendar days following entry of the order approving the  
14 sale of the Property to such Winning Bidder. To the extent the Winning Bidder fails to  
15 tender the balance of the purchase price by such date, that bidder's entire Deposit shall  
16 become non-refundable and be forfeited to the Trustee. To the extent Purchaser or any  
17 other Overbidder is not the Winning Bidder that party's Deposit will be refunded by the  
18 Trustee.

19 g) Agreement to Terms and Overbid Procedures

20 Any Overbidder's tender of the Deposit to the Trustee shall serve as that  
21 Overbidder's agreement with this proposed overbid procedure and the terms of the sale  
22 of the Property discussed herein and in the Sale Motion.

23 **IN THE EVENT THAT ANY BUYER FAILS TO PERFORM, THE DEPOSIT**  
24 **MADE AT THE TIME OF HEARING WILL BE FORFEITED. ALL SALES ARE AS IS,**  
25 **WHERE IS, WITHOUT REPRESENTATIONS, WARRANTY OR RECOURSE.**  
26  
27  
28

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
16030 Ventura Blvd., Ste. 470, Encino, CA 91436

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* 08/16/2016, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On *(date)* 08/16/2016, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

JUDGE: Peter H. Carroll, U.S. Bankruptcy Court, 1415 State Street, Suite 230, Santa Barbara, CA 93101

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** *(state method for each person or entity served)*: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08/16/2016  
*Date*

Helen Cardoza  
*Printed Name*

/s/ Helen Cardoza  
*Signature*

**ADDITIONAL SERVICE INFORMATION (if needed):**

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

**INTERESTED PARTY: Bret G Anderson** banderson@fcoplaw.com

**ATTORNEY FOR DAVID A. BLACKBURN: William C Beall** will@beallandburkhardt.com,  
carissa@beallandburkhardt.com

**ATTORNEY FOR JPMORGAN CHASE, N.A.: Greg P Campbell** ch11ecf@aldridgepite.com,  
gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com

**ATTORNEY FOR UNITED BANK: Sara Chenetz** schenetz@perkinscoie.com, dlax@perkinscoie.com

**TRUSTEE: Jeremy W. Faith (TR)** Trustee@MarguliesFaithlaw.com,  
C118@ecfcbis.com;Helen@MarguliesFaithLaw.com;leedowding@gmail.com;Brian@MarguliesFaithlaw.com

**ATTORNEY FOR U.S. TRUSTEE: Brian D Fittipaldi** brian.fittipaldi@usdoj.gov

**ATTORNEY FOR UNITED BANK: Amir Gamliel** agamliel@perkinscoie.com, cmallahi@perkinscoie.com

**ATTORNEY FOR DEBTORS: Jonathan Gura** jgura@hbsb.com, tina@hbsb.com

**ATTORNEY FOR DAVID A. BLACKBURN: Carissa N Horowitz** carissa@beallandburkhardt.com,  
artyc@aol.com;castlesb@aol.com

**ATTORNEY FOR THE NEULIGHT LIVING TRUST: Yale K Kim** ykim@allenmatkins.com,  
lpanderson@allenmatkins.com

**ATTORNEY FOR JPMORGAN CHASE, N.A.: Megan E Lees** ecfcacb@aldridgepite.com,  
MEL@ecf.inforuptcy.com;mlees@aldridgepite.com

**ATTORNEY FOR TRUSTEE: Noreen A Madoyan** Noreen@MarguliesFaithLaw.com,  
Helen@MarguliesFaithlaw.com;Victoria@MarguliesFaithlaw.com;Brian@MarguliesFaithlaw.com

**ATTORNEY FOR TRUSTEE: Craig G Margulies** Craig@MarguliesFaithlaw.com,  
Victoria@MarguliesFaithlaw.com;Brian@MarguliesFaithlaw.com

**ATTORNEY FOR DEBTORS: Reed H Olmstead** reed@olmstead.law, olmstead.ecf@gmail.com

**ATTORNEY FOR WELLS FARGO BANK, N.A.: Yvonne Ramirez-Browning** BANKRUPTCYCLS@wellsfargo.com

**ATTORNEY FOR DAVID A. BLACKBURN: Vincent Renda** vr@rendalawoffices.com, ld@rendalawoffices.com

**ATTORNEY FOR PARRISH & YARNELL, P.A.: Joseph M Sholder** sholder@g-tlaw.com

**ATTORNEY FOR RECOVERY MANAGEMENT SYSTEMS CORP.: Ramesh Singh** claims@recoverycorp.com

**ATTORNEY FOR OJAI COMMUNITY BANK: Diane F Suchter** ojailaw@verizon.net

**ATTORNEY FOR DEBTORS: Peter Susi** psusi@hbsb.com, susan@hbsb.com;krnimmons@hbsb.com

**ATTORNEY FOR TRUSTEE: Meghann A Triplett** Meghann@MarguliesFaithlaw.com,  
Helen@MarguliesFaithlaw.com;Noreen@MarguliesFaithlaw.com;Victoria@MarguliesFaithlaw.com;Brian@MarguliesFaithlaw.com

**UST: United States Trustee (ND)** ustpreion16.nd.ecf@usdoj.gov

**ATTORNEY FOR JPMORGAN CHASE, N.A.: Gilbert R Yabes** ecfcacb@aldridgepite.com,  
GRY@ecf.inforuptcy.com;gyabes@aldridgepite.com